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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

MARIO ORTEGA,

Defendant and Appellant.

E050312

(Super.Ct.No. RIF72231)

**OPINION**

APPEAL from the Superior Court of Riverside County. Gordon R. Burkhardt, Judge. (Retired judge of the Riverside Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Alan S. Yockelson, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury found defendant and appellant Mario Ortega guilty of numerous violent crimes, including several sex-related crimes, such as forcible sodomy (Pen. Code, § 286, subd. (c)),<sup>1</sup> forcible rape (§ 261, subd. (a)(2)), and forcible oral copulation in concert

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<sup>1</sup> All future statutory references are to the Penal Code unless otherwise stated.

(§ 288a, subd.(d)). As a result, defendant was sentenced to a total term of 74 years 4 months in state prison. This is defendant's second appeal.<sup>2</sup> In this matter, defendant appeals following the trial court's amendment of his prison sentence to include that he submit to HIV/AIDS testing pursuant to sections 1202.1 and 1202.6. We find no error and will affirm the judgment.

## I

### PROCEDURAL BACKGROUND<sup>3</sup>

Following his conviction, defendant was sentenced on February 26, 1999. He subsequently appealed, asserting a number of contentions. We rejected defendant's contentions but modified defendant's sentence and directed the trial court to amend the minute order of the sentencing hearing. (See *Ortega I.*)

Approximately 11 years later, the Department of Corrections and Rehabilitation sent a letter to the trial court dated November 9, 2009, asking for clarification of the court's intent in not imposing the mandatory HIV/AIDS testing pursuant to section 1202.1, subdivision (a). On December 17, 2009, without defendant's presence, the trial court amended defendant's prison sentence to include that he submit to HIV/AIDS testing pursuant to sections 1202.1 and 1202.6.

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<sup>2</sup> In his first appeal, defendant made a number of contentions, all of which this court rejected, while modifying defendant's sentence and directing the trial court to amend the trial court's minute order of the sentencing hearing. (*People v. Ortega* (June 28, 2001, E024506) [nonpub. opn.] (*Ortega I.*))

<sup>3</sup> The details of defendant's criminal conduct are not relevant to the limited legal issue raised in this appeal. Those details are set out in our prior unpublished opinion, and we will not recount them here. (See *Ortega I.*)

On February 5, 2010, blood was drawn from defendant, and the results were reported the following day.

## II

### DISCUSSION

Defendant appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d 493], setting forth a statement of the case, a summary of the facts, and potential arguable issues and requesting this court undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we independently reviewed the record for potential error. We have now completed our independent review of the record and find no arguable issues.

## III

### DISPOSITION

The judgment is affirmed.

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RICHLI

J.

We concur:

HOLLENHORST

Acting P.J.

MILLER

J.